

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

AHMED SINGLETON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil Action No. 19-16592 (MCA)

ORDER

This matter has been opened to the Court by Petitioner's filing of a motion for default judgment. *See* ECF No. 4. It appearing that:

1. On April 17, 2020, Petitioner filed a motion for default judgment because Respondents failed to submit their Answer in this matter. ECF No. 4.
2. On April 21, 2020, the government requested and received an extension of time to file their answer, and on June 3, 2020, the answer was filed. ECF Nos. 5-8.
3. Petitioner's response was filed on August 4, 2020. ECF No. 11.
4. At this time, the Court will deny the motion to default judgment and accept the answer and traverse as within time. A respondent's untimely answer is not grounds to grant default judgement in a habeas proceeding. *In re West*, 591 F. App'x 52, 54 n.3 (3d Cir. 2015); *see also Riley v. Gilmore*, No. 15-351, 2016 WL 5076198, at *1 n.2 (E.D. Pa. Sept. 20, 2016), certificate of appealability denied sub nom. *Riley v. Superintendent Greene SCI*, No. 16-3954, 2017 WL 5068120 (3d Cir. Feb. 9, 2017); *Nesmith v. Common Pleas Ct. of Philadelphia Cty.*, No. 09-4356, 2010 WL 3278042, at *1 (E.D. Pa. Aug. 16, 2010) ("[E]ven if the Response to the habeas petition were untimely, a respondent's tardiness...is not grounds for granting federal

habeas relief.”). “Even if the Government had failed to respond to the § 2255 motion, it does not follow that [the petitioner] is entitled to a default judgment.” *In re West*, 591 F. App’x at 54 n.3. Simply stated, “[d]efault judgment is inapplicable in the habeas context.” *Riley*, 2016 WL 5076198, at *1 n.2; *see also Fitch v. United States*, 19-17945, 2021 WL 1169035, at *1 (D.N.J. Mar. 26, 2021) (explaining same). Because the requested relief is not available as a matter of law, Petitioner’s motion for default judgment is denied, and the Court will accept the answer and the traverse as within time.

IT IS THEREFORE, on this 22nd day of September 2021,

ORDERED that the motion for default judgment, ECF No. 4, is DENIED; and it is further

ORDERED that the answer and the traverse are accepted as within time; and it is further

ORDERED that the Clerk of the Court shall send a copy of this Order to Petitioner at the address on file.



Hon. Madeline Cox Arleo
US District Judge